

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Ethan De Angelo	Team: Squad #08	CCRB Case #: 202304785	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 05/26/2023 8:48 PM	Location of Incident: White Plains Road and Rhinelander Avenue	18 Mo. SOL 11/26/2024	Precinct: 49		
Date/Time CV Reported Sat, 05/27/2023 11:33 AM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Sat, 05/27/2023 11:33 AM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. PO Shawn Morris	10616	955222	049 PCT
2. DI Gareth Kentish	00000	944095	049 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. LT John Ruis	00000	916609	049 PCT
2. PO Jeffry Reyes	20839	959924	049 PCT
3. PO Patrick Nicewicz	22006	959843	049 PCT
4. PO Stephen Brancatelli	00778	959506	049 PCT
5. PO David Carlo	15174	965969	049 PCT
6. PO Karla Cruz	29534	970470	049 PCT

Officer(s)	Allegation	Investigator Recommendation
A . DI Gareth Kentish	Force: On May 26, 2023, at the intersection of White Plains Road and Rhinelander Avenue in the Bronx, Deputy Inspector Gareth Kentish struck § 87(2)(b) with a vehicle.	
B . PO Shawn Morris	Force: On May 26, 2023, at the intersection of White Plains Road and Rhinelander Avenue in the Bronx, Police Officer Shawn Morris used physical force against § 87(2)(b)	
C . PO Shawn Morris	Abuse: On May 26, 2023, at the intersection of White Plains Road and Rhinelander Avenue in the Bronx, Police Officer Shawn Morris frisked § 87(2)(b)	
D . PO Shawn Morris	Abuse: On May 26, 2023, at the intersection of White Plains Road and Rhinelander Avenue in the Bronx, Police Officer Shawn Morris searched § 87(2)(b)	
E . PO Shawn Morris	Abuse: On May 26, 2023, at the intersection of White Plains Road and Rhinelander Avenue in the Bronx, Police Officer Shawn Morris searched the vehicle in which § 87(2)(b) was an occupant.	

Officer(s)	Allegation	Investigator Recommendation
F . PO Shawn Morris	Abuse: On May 26, 2023, at the intersection of White Plains Road and Rhinelander Avenue in the Bronx, Police Officer Shawn Morris provided a false official statement.	

Case Summary

On May 27, 2023, § 87(2)(b) filed this complaint via the CCRB website. On May 26, 2023.

On May 26, 2023, at 8:48PM, § 87(2)(b) was pulled over at the intersection of White Plains Road and Rhinelander Avenue in the Bronx by Police Officer Shawn Morris and Deputy Inspector Gareth Kentish of the 49th Precinct. DI Kentish allegedly hit the back of § 87(2)(b) car with his police vehicle (**Allegation A: Force**, § 87(2)(g)). PO Morris then pulled § 87(2)(b) out of his vehicle (**Allegation B: Force**, § 87(2)(g)). PO Morris then frisked and searched § 87(2)(b) (**Allegation C and D: Abuse of Authority**, § 87(2)(g)). PO Morris searched § 87(2)(b) vehicle (**Allegation E: Abuse of Authority**, § 87(2)(g)). Later that same day, PO Morris provided a false official statement while preparing a Vehicle Report for the incident (**Allegation F: Abuse of Authority**, § 87(2)(g)).

§ 87(2)(b) was ultimately summonsed on scene for reckless driving. [§ 87(2)(b)] [§§ 86(1)(2)&(4)&(b)&(7)&(c)]

Body Worn Camera (BWC) was obtained from DI Kentish, Lieutenant John Ruis, PO Jeffry Reyes, PO Patrick Nicewicz, PO Stephen Brancatelli, PO David Carlo, and PO Carla Cruz. The footage can be found in IAs #83-86, 28 and is summarized in IA #29 (BR 02-07).

Allegation A - Force: On May 26, 2023, at the intersection of White Plains Road and Rhinelander Avenue in the Bronx, Deputy Inspector Gareth Kentish Deputy struck § 87(2)(b) with a vehicle.

Allegation B - Force: On May 26, 2023, at the intersection of White Plains Road and Rhinelander Avenue in the Bronx, Police Officer Shawn Morris used physical force against § 87(2)(b)

BWC footage from DI Kentish shows, at 00:00, DI Kentish stops his police vehicle parallel to § 87(2)(b). There is no contact between either of the vehicles. At 00:58, DI Kentish and PO Morris exit their vehicle. DI Kentish turns towards § 87(2)(b) vehicle and PO Morris can be seen at the driver's door. The door is already open. At 01:03, PO Morris can be seen leaning into the car through the driver's door and ordering § 87(2)(b) to get out. PO Morris immediately pulls § 87(2)(b) out of the car and onto the ground. The officers then stand § 87(2)(b) on his feet. DI Kentish then says, "What are you doing driving through the streets like that? You don't see us trying to stop you?" The officers handcuffed § 87(2)(b) and escort him to the back of the car. DI Kentish asks § 87(2)(b) for his ID. § 87(2)(b) asks why he was pulled out of the car. DI Kentish says that § 87(2)(b) was running "all" of the lights and the officers were trying to stop him, which § 87(2)(b) denies (BR 02).

§ 87(2)(b) statement was inconsistent with the BWC footage. On May 11, 2023, at approximately 12:34 PM, § 87(2)(b) was driving alone on Morris Park Avenue in his 2018 gray Toyota Camry heading towards White Plains Road in the Bronx. The vehicle is registered to § 87(2)(b). There were no issues with the vehicle, and it was in good working order. When § 87(2)(b) reached Victor Street, he attempted to make a left turn but saw that there were two marked police vehicles blocking the road. § 87(2)(b) corrected his turn and continued driving on White Plains Road. He noticed an unmarked black Ford sedan behind him, which activated its lights. The officers did not activate their sirens or make any announcements over the PA System. Prior to this point, § 87(2)(b) had not committed any traffic violations and denied that any of the officers blocking Victor Street attempted to

communicate with him. There was a lot of traffic, so § 87(2)(b) was not sure whether it was him the officers were attempting to pull over. When § 87(2)(b) reached White Plains Road, he pulled over to the side to allow the officers to pass. The officers stopped their vehicle behind him, did not activate their sirens, issue him any instructions, or exit their vehicle.

After approximately five seconds, § 87(2)(b) was still unsure whether the officers were intending to pull him over so he turned onto White Plains Road and continued driving. He observed the officers still behind him with their turret lights on, so he pulled over again at the intersection of Rhinelander Avenue. Several seconds later, § 87(2)(b) heard a loud bang, which was the police vehicle hitting the rear of his car. § 87(2)(b) vehicle did not sustain any damage from the contact. PO Morris exited the police vehicle, ran towards § 87(2)(b) door, shined his flashlight in his face, and repeatedly shouted at him to exit his vehicle. Officers had not given him any instructions prior to this point. § 87(2)(b) stated that his windows were already rolled down when PO Morris approached. § 87(2)(b) had his hands on his steering wheel prior to PO Morris approaching and denied making any other movements or reaching for anything. PO Morris ordered § 87(2)(b) to exit his vehicle 5-7 times. § 87(2)(b) did not get out and following each command, instead he asked PO Morris why he had been pulled over. PO Morris then opened the driver's door and ordered § 87(2)(b) to put his car in park, which he did. § 87(2)(b) then unbuckled his seatbelt. PO Morris ordered him to exit the vehicle several more times. § 87(2)(b) did not comply and continued to ask PO Morris what he had done wrong. PO Morris then grabbed § 87(2)(b) by the sleeve of his shirt, pulled him out of the vehicle, and threw him to the ground. § 87(2)(b) landed on his hands and knees and sustained a cut to his left knee and a scrape to one of his hands (BR 08).

PO Morris' statement was generally consistent with the BWC footage. PO Morris was in an unmarked police vehicle with DI Kentish, canvassing the area in association with a separate job in the vicinity of Morris Park Avenue and Victor Street in the Bronx. PO Morris noticed a vehicle, occupied by § 87(2)(b) speed through a busy intersection in a commercial district on Morris Park Avenue. PO Morris could not approximate how fast § 87(2)(b) was driving but said that it was alarming given the number of pedestrians in the area. He did not recall whether § 87(2)(b) came close to hitting any pedestrian. § 87(2)(b) rate of speed was considered a violation. The officers then activated their sirens and turret lights and attempted to stop him, though § 87(2)(b) continued driving through several other intersections before eventually stopping. PO Morris did not recall specifically where this occurred. PO Morris did not recall whether he or DI Kentish issued any commands over the PA system. When PO Morris exited the police vehicle to approach § 87(2)(b) he ordered him to stop the car and roll down his windows. § 87(2)(b) did not acknowledge these commands and "took off" on the officers. PO Morris did not recall where they stopped § 87(2)(b).

§ 87(2)(b) ultimately stopped his vehicle at the intersection of Rhinelander Avenue and White Plains Road. PO Morris denied that he struck § 87(2)(b) vehicle with his police vehicle. Prior to stopping at this location, § 87(2)(b) had driven through "all of the traffic lights" from Morris Avenue and Victor Street. PO Morris could not specifically recall the number of lights § 87(2)(b) ran, but stated there were several red lights § 87(2)(b) ran. PO Morris approached the vehicle, verbally identified himself, ordered § 87(2)(b) to lower his windows and to stop the car, and to exit the vehicle. The driver's window was already lowered. PO Morris did not recall if any of the other windows were lowered. When § 87(2)(b) did not immediately step out by the time PO Morris reached the driver's side door, he opened the door and pulled him out by "his shoulders and upper body." PO Morris did not recall how many orders he gave to exit the vehicle, and aside from not complying,

he did not recall how, if at all, § 87(2)(b) responded to these orders. He physically removed § 87(2)(b) due to his reckless driving, the fact that he had already taken off on the officers once, and the fact that PO Morris could not see into the vehicle due to the tints. PO Morris therefore did not trust § 87(2)(b) to be inside the vehicle. When asked if § 87(2)(b) resisted being pulled out of the vehicle, PO Morris stated that he “flopped on the ground.” PO Morris then helped § 87(2)(b) to his feet and brought him to the rear of the vehicle. When approaching the vehicle PO Morris did not recall making any observation that § 87(2)(b) had any weapons inside the vehicle and said that the reason for removing him was in part to determine whether he had any (BR 09).

DI Kentish’s statement was generally consistent with the BWC footage, though he stated that he did not witness PO Morris pull § 87(2)(b) out of the vehicle (BR 10).

The Threat Resistance and Injury Report prepared for this incident was consistent with officers’ statements and the BWC footage (BR 11).

According to Patrol Guide Procedure 221-01, force may be used when it is reasonable to ensure the safety of a member of service or a third person, or otherwise protect life, or when it is reasonable to place a person in custody or prevent their escape from custody. In all circumstances, any application or use of force must be reasonable under the circumstances (BR 12).

BWC footage shows that the officers’ vehicle did not hit the back of § 87(2)(b) vehicle as alleged. § 87(2)(g)

It is undisputed that § 87(2)(b) initially pulled over before driving away from the officers. Additionally, once he was ultimately stopped, § 87(2)(b) acknowledged that he did not immediately exit his vehicle following PO Morris’ orders to do so. § 87(2)(g)

Allegation C – Abuse of Authority: On May 26, 2023, at the intersection of White Plains Road and Rhinelander Avenue in the Bronx, Police Officer Shawn Morris frisked § 87(2)(b).

Allegation D – Abuse of Authority: On May 26, 2023, at the intersection of White Plains Road and Rhinelander Avenue in the Bronx, Police Officer Shawn Morris searched § 87(2)(b).

Allegation E – Abuse of Authority: On May 26, 2023, at the intersection of White Plains Road and Rhinelander Avenue in the Bronx, Police Officer Shawn Morris searched the vehicle in which § 87(2)(b) was an occupant.

§ 87(2)(b) did not allege that he was frisked or searched during the incident. These actions were instead captured on DI Kentish’s BWC footage. PO Morris was not equipped with BWC during this incident as his camera was undergoing repair.

BWC footage from DI Kentish shows, at 01:20, PO Morris asks for § 87(2)(b) ID. § 87(2)(b) says that if the officers had not pulled him out, he would have given it to them. At 02:28, DI Kentish asks § 87(2)(b) again if he has his ID with him. PO Morris states it is inside the car. § 87(2)(b) states, “If you give me permission to look. I’ll look.” PO Morris asks where in the car his ID is. § 87(2)(b) states, “I don’t know. I got to look.” PO Morris then lifts up § 87(2)(b) ball cap from his head and looks underneath. At 02:44, DI Kentish opens the driver’s door and looks into the car for one second. He then walks back

to § 87(2)(b) and says, "Listen, I don't want to search through your whole car. Do you have an ID or not?" § 87(2)(b) responds that he does not. PO Morris can be seen reaching down towards § 87(2)(b) pants pockets. § 87(2)(b) denies that he was driving recklessly. DI Kentish tells him that he has been driving crazy, and the officers have been behind him for a while. At 03:45, DI Kentish walks back to the vehicle and closes the driver's door. At 05:30, PO Morris tells § 87(2)(b) that he ran multiple red lights, which he denies. PO Kentish tells him that he pulled into the opposite side of traffic to drive around. § 87(2)(b) continues to argue that he did not do anything wrong. At 05:38, DI Kentish says to § 87(2)(b) "You don't have ID right now. We're supposed to bring you to the precinct. Stop playing games." At 06:51, PO Morris walks to the driver's door, opens it, and leans into the vehicle. At 07:40, § 87(2)(b) states that the officers do not have a warrant and have no reason to be searching his vehicle. At 08:38, PO Morris tells § 87(2)(b) to get back in his driver's seat, which he does (BR 02).

BWC footage from PO Reyes shows, at 01:05, that prior to conducting the vehicle search, PO Morris is speaking with § 87(2)(b) at the rear of the vehicle about his ID. § 87(2)(b) can be heard saying, "It's not in the car." PO Morris responds, "It's not in the car?" (BR 04)

BWC from PO Brancatelli shows, at 1:40, PO Morris walks from the rear of the vehicle towards the driver's side door. From the rear of the vehicle, PO Morris can be seen in the driver's seat area of the vehicle until 03:10 when he concludes his search (BR 05).

The BWC footage shows that § 87(2)(b) is standing at the rear of the vehicle with PO Morris for 5 minutes and 15 seconds prior to the vehicle search. Except for 12 seconds in which DI Kentish walks away to conduct a visual inspection of the vehicle, the entirety of the interaction between § 87(2)(b) and PO Morris is covered by either DI Kentish or Lt. Ruis' BWC. The footage does not capture PO Morris requesting consent to search the vehicle, nor does it show § 87(2)(b) giving permission to do so (BR 02, 03).

§ 87(2)(b) statement was somewhat consistent with the BWC footage. § 87(2)(b) stated that he did not have his license with him at the time of the incident. While at the rear of the vehicle, PO Morris told § 87(2)(b) that if he provided a fake name, the officers would have to take him back to the stationhouse. No officer asked § 87(2)(b) if they could search his vehicle. Other than asking him about his identity, there was no other conversation between PO Morris and § 87(2)(b). An officer, identified by the investigation as PO Morris, searched § 87(2)(b) vehicle by entering it and sitting in the driver's seat. § 87(2)(b) was unsure which officer did this. While § 87(2)(b) was standing at the rear of the vehicle and facing the opposite direction, he turned around several times and was able to observe an officer in the front seat, though he was unable to see exactly where the officer was searching. § 87(2)(b) later observed that items in the front seat area had been taken out or moved around including a deck of cards and his registration papers in the center console and other documents in the glove compartment. § 87(2)(b) stated that he did not have anything else in his vehicle aside from several water bottles and some tissue, though he later acknowledged that the officer recovered an old empty beer can beneath the driver's seat. § 87(2)(b) denied that he had consumed any alcohol prior to the stop and denied having any other contraband in the vehicle. The officer was in the driver's seat for several minutes. He exited, then opened the rear passenger door. He did not enter and only briefly looked inside. No additional officers entered § 87(2)(b) vehicle (BR 08).

PO Morris's statement was generally consistent with the BWC footage. After pulling § 87(2)(b) out of the vehicle, PO Morris brought him to the rear of the vehicle and frisked him around his waistband area. He did so because § 87(2)(b) was driving recklessly and was going to be issued a C-summons. Prior to the frisk, PO Morris did not make any observation that § 87(2)(b) was carrying a weapon or that there were any weapons inside his vehicle. The frisk did not reveal any weapons. PO Morris later said that he did not recall exactly where he frisked § 87(2)(b). PO Morris acknowledged removing § 87(2)(b) hat and stated that he did so based on a previous unrelated experience where a suspect was concealing a razor blade under his hat. PO Morris stated that removing the hat, along with the frisk, was to make sure § 87(2)(b) did not have any weapons as he was going to receive a C-summons. However, PO Morris did not make any observation that § 87(2)(b) was concealing razor blades in his hat at the time of the incident.

PO Morris entered the vehicle and conducted a search of the "general area." When asked for clarification, PO Morris stated his search included, "whatever was open," and "whatever his eyes could see." PO Morris denied that the glove box or any of the other compartments were open. The reason for searching the vehicle was to locate § 87(2)(b) identification. PO Morris believed that § 87(2)(b) had told him earlier that his identification was inside the vehicle, but he did not tell him exactly where it was located. PO Morris stated that § 87(2)(b) did not provide him with an answer when he asked where in the vehicle the identification was, then stated that he did not recall whether he asked this question. PO Morris did not know whether DI Kentish asked § 87(2)(b) where his identification was. § 87(2)(b) identification was not recovered during the vehicle search. PO Morris recovered a Modelo beer bottle from the floor of the front passenger seat. He did not recall whether there was anything in it. PO Morris did not believe that § 87(2)(b) was under the influence at the time of the incident. When asked whether he can conduct a search of the vehicle to locate an individual's identification, PO Morris stated that he could because the offense was a misdemeanor, and he had the choice of making an arrest or issuing a C-summons in the field. PO Morris exercised his discretion and chose not to arrest § 87(2)(b) as he did not cause any additional problems once he was removed from the car. § 87(2)(b) identity was ultimately verified on scene through the DAS system. PO Morris did not recall whether he requested § 87(2)(b) consent to search the vehicle and did not recall whether § 87(2)(b) provided it (BR 09).

DI Kentish stated that he did not observe PO Morris frisk or search § 87(2)(b) and did not make any observation that he was armed. DI Kentish did not recall PO Morris searching the vehicle and denied that he instructed him to do so (BR 10).

A Vehicle Report was prepared by PO Morris and stated that the vehicle was searched, and § 87(2)(b) provided consent to do so (BR 13).

An officer may frisk a person when they have a reasonable suspicion that the person is armed and dangerous. Further, an officer may only enter the interior portions of a person's clothing or personal property if they felt an object that they reasonably suspect is a weapon or dangerous instrument for the purpose of removing the object, People v. De Bour, 40 N.Y.2d 210 (BR 14).

According to the Right to Know Act section § 14-173 entitled, "Guidance regarding consent searches," officers need to first obtain voluntary, knowing, and intelligent consent prior to the search of a person, or a person's vehicle, home, or property...when such search is not conducted pursuant to a warrant, any other exception to the warrant requirement under applicable law, or probable cause, or when such search is not incident to a lawful arrest...officers must use plain and

simple language delivered in a non-threatening manner, that the person who is the subject of the search is being asked to voluntarily, knowingly, and intelligently consent to such search, and explaining that such search will not be conducted if such person refuses to provide consent to such search (BR 15).

§ 87(2)(g)

the BWC footage show that the officers planned to make an arrest. § 87(2)(g)

§ 87(2)(g)

However, BWC footage does not capture § 87(2)(b) explicitly telling officers that his ID is in the vehicle, only that he is willing to look for it if officers allow him to do so. The footage shows that DI Kentish tells § 87(2)(b) in front of PO Morris, that if § 87(2)(b) cannot produce an ID, the officers should take him back to the stationhouse. BWC footage also shows that later in the interaction, § 87(2)(b) tells PO Morris that his ID is not in the vehicle. Despite this, PO Morris proceeds to conduct a vehicle search, which lasts one minute and thirty seconds. § 87(2)(b) stated that no officer asked him for consent to search his vehicle. The Vehicle Report prepared by PO Morris states that consent was given to search the vehicle. However, BWC footage shows that PO Morris does not ask for consent to search the vehicle, nor does § 87(2)(b) provide it. Furthermore, the footage shows that § 87(2)(b) begins protesting once PO Morris begins the search.

§ 87(2)(g)

Allegation F – Abuse of Authority: On May 26, 2023, at the intersection of White Plains Road and Rhinelander Avenue in the Bronx, Police Officer Shawn Morris provided a false official statement.

Prior to his interview PO Morris reviewed DI Kentish’s BWC footage, which captures the interaction between himself and § 87(2)(b) prior to the vehicle search. As previously stated, the BWC footage shows that § 87(2)(b) is standing with PO Morris for five minutes and 15 seconds prior to the vehicle search. Except for 12 seconds in which DI Kentish walks away to conduct a visual inspection of the vehicle, the entirety of the interaction between § 87(2)(b) and PO Morris is covered by either DI Kentish or Lt. Ruis’ BWC. After this 12-second lapse in coverage, DI Kentish returns to the rear of the vehicle, where § 87(2)(b) and PO Morris are discussing § 87(2)(b) reckless driving prior to the stop. At no point in the video footage does PO Morris ask for consent to search the vehicle, nor does § 87(2)(b) provide it (BR 02, 03).

PO Morris stated that he did not recall whether he asked for consent to search the vehicle and did not recall whether § 87(2)(b) provided it. PO Morris was shown the Vehicle Report he prepared, which notes that § 87(2)(b) vehicle was searched, and that consent was

provided. It did not refresh PO Morris' recollection as to whether § 87(2)(b) consented to the vehicle search. When asked whether DI Kentish's BWC footage refreshed his recollection as to whether § 87(2)(b) provided consent to search the vehicle, PO Morris responded, "whether he gave it to me, or my CO gave it to me, or whatever the case is, that's where I got it from probably. Who knows? Like I said, I don't recall" (BR 09).

Per Patrol Guide Procedure 203-08, A false official statement is defined as "an intentional statement that a member of service knows to be untrue, which is material to the outcome of an investigation, proceeding, or other matter in connection with which the statement is made" (BR 16).

§ 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party (BR 17).
- PO Morris has been a member of service for 10 years and has been named as a subject in six additional CCRB complaints and 14 additional allegations, none of which were substantiated.
- DI Kentish has been a member of service for 16 years and has been named as a subject in one additional CCRB complaint and one additional allegation, which was not substantiated.

Mediation, Civil, and Criminal Histories

- This complaint was not suitable for mediation.
- As of November 28, 2023, the NYC Office of the Comptroller has not received a notice of claim in regard to this incident (BR 18).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

RPBP History

- This complaint did not contain any allegations of Racial Profiling/Bias-Based Policing.

Squad No.: 8

Investigator:	Trevor Hackett	Inv. Trevor Hackett	11/29/2023
	Signature	Print Title & Name	Date

Squad Leader:	Ethan De Angelo	IM Ethan De Angelo	10/21/2024
	Signature	Print Title & Name	Date

Reviewer:			
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Signature

Print Title & Name

Date